No. (1)

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In The

Supreme Court of the United States

CIGNA PROPERTY AND CASUALTY,
Petitioner,

v.

TERESA VILLAR RUIZ

and

ANTONIO RUIZ,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

PETITION FOR WRIT OF CERTIORARI

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HOPP

QUESTIONS PRESENTED

1. Whether the lower court erred in using Florida Law to interpret the Longshore Act and hold that Antonio Ruiz' Longshore workers' compensation benefits may be executed upon to satisfy outstanding child support obligations.

2. Whether the lower court erred in determining that Section 16 of the Longshore Act has been repealed so as to allow execution upon Longshore benefits for outstanding child support obligations.

CORPORATE DISCLOSURE

Petitioner CIGNA Property and Casualty was formerly engaged in the business of providing workers' compensation and other insurance to various businesses, in this claim under the name of a subsidiary, Pacific Employers Insurance Company. In July 1999, ACE Limited acquired the international and domestic property and casualty business of CIGNA. ACE Limited is a publicly held corporation. Wellington Management Company owns 13.2 percent of the company and SMR Corporation owns 10.1 percent of the company.

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Petitioner respectfully Petitions for a Writ of Certiorari to review the decision of the District Court of Appeal of Florida, Third District, in this case.

OPINIONS BELOW

The Supreme Court of Florida's Order denying discretionary review was decided on May 19, 2003 and is set forth in the Appendix at A-1a. The Third District Court of Appeals' Order affirming the Order of the Circuit Court, decided on October 23, 2002, is reported at 834 So.2d 234 (Fla. 3rd DCA 2002), and is set forth in the Appendix at A-5a. The Third District Court of Appeals' Order denying the Petitioner's Motion for Rehearing, Rehearing *En Banc*, and Certification was denied on January 15, 2003 and is set forth in the Appendix at A-3a. The Circuit Judge's Order Denying CIGNA Property and Casualty's Objections to the Income Deduction Order is dated October 29, 2001 is set forth in the Appendix at A-11a. The Circuit Court's original Income Deduction Order of May 8, 2001 is set forth in the Appendix at A-13a.

STATEMENT OF JURISDICTION

The Decision of the District Court of Appeal of Florida, Third District, was issued on October 23, 2002. The District Court of Appeals of Florida, Third District, denied the Petitioner's Motion for Rehearing, Rehearing en Banc and Certification on January 15, 2003. The Supreme Court of Florida denied discretionary review on May 19, 2003. There has been no order granting an extension of time to file the Petition of Writ of Certiorari. There has been no Cross-Petition for Writ of Certiorari filed. Jurisdiction to

review the Decision in question by Writ of Certiorari is conferred on this Court by 28 U.S.C. §1254(1).

STATUTORY PROVISIONS INVOLVED

33 U.S.C. § 916 provides:

> No assignment, release or commutation of compensation or benefits due or payable under this chapter, except as provided by this chapter, shall be valid, and such compensation and benefits shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

STATEMENT OF THE CASE

Federal questions have been raised from the inception and throughout this claim. In the Court of first instance, the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the federal questions sought to be reviewed were raised during a hearing on September 28, 2001 (R.8). (Referencing the Appendix to the Petitioner's initial brief in the Third District Court of Appeal) The federal questions were raised by oral argument during the hearing, and the Circuit Court passed on the federal questions by denying CIGNA's Objection to the Income Deduction Order. (App. At 11a) The hearing transcript of the oral argument of September 28, 2001 includes argument between the parties and discussion

by the Court as to whether or not 33 U.S.C. § 916, commonly called the anti-alienation provision of the Longshore Act, was impliedly repealed by certain provisions of the Social Security Act based on the Ninth Circuit's decision in *Moyle v. Director, OWCP*, 147 F.3d 1116 (9th Cir. 1998) (R. 8). In a post-hearing Memorandum of Law dated October 5, 2001 in support of CIGNA's Objection to the Income Deduction Order, the Petitioner herein argued that Congress intended to exempt benefits paid under the Longshore Act from Income Deduction Orders pursuant to the anti-alienation clause in found in Section 16 of the Act, and that the Circuit Court's issuance of an Income Deduction Order against Mr. Ruiz' Longshore benefits was tantamount to amending the Longshore Act. (R. 7). In the Third District Court of Appeal, federal questions were raised both in the Appellant's (Petitioners herein) and Appellee's (Respondent Teresa Villar Ruiz herein) briefs. At the Appellate level, the Petitioner herein argued that the Longshore Act precluded garnishment of Longshore benefits based on Section 16 of the Act, and that Florida Law should not be used to interpret the Longshore Act pursuant to the doctrines of supremacy, pre-emption and super session. Respondent, Teresa Villar Ruiz herein, argued that Section 16 of the Longshore Act was essentially repealed when Congress amended 42 U.S.C. § 659(h)(1)(a)(iii) and 5 CFR § 581.103 to allow for garnishment of benefits to satisfy child support obligations. The Third District Court of Appeal passed on the federal questions by interpreting 33 U.S.C.A. § 916 under Florida Law rather than federal law. *See* App. at 5a. The Appellate Court also, in a footnote, stated that the 1996 amendments to Social Security Act

impliedly repealed the non-alienation provision of the Longshore Act with regard to delinquent support obligations. App. at 5a. The parties raised similar issues with respect to CIGNA's Motion for Rehearing, Rehearing *En Banc*, and Certification, which was denied, and in their respective briefs when the Petitioner herein filed a Petition for Discretionary Review with the Florida Supreme Court, which declined to accept jurisdiction. App. at 3a.

Statement of the Facts

Mr. Antonio Ruiz, while in the employ of Potashnick Construction, was injured on or about November 11, 1981. (R. 3) Thereafter, Mr. Ruiz filed a Workers' Compensation Claim under the Longshore and Harbor Workers' Compensation Act ("Longshore Act"), and eventually entered into a Joint Stipulation and a Request for Order Awarding Benefits with his employer, Potashnick Construction, and its Longshore Carrier, CIGNA. (R. 3) The Joint Stipulation and Request for Order Awarding Benefits were made as a result of hearing scheduled before District Chief Judge E. Earl Thomas on February 1, 1990, wherein it was announced that the parties had resolved their primary differences and entered into various factual stipulations and proposals for payment of compensation. (R. 2-3) Pursuant to that Joint Stipulation, Potashnick Construction and CIGNA, as the Employer/Carrier, accepted Mr. Ruiz as permanent and totally disabled as of March 10, 1986, and agreed to pay the Claimant permanent total disability benefits as of the date of the Order, June 8, 1990. (R. 2) Subsequent to the entry of the Compensation Order, dissolution of

marriage proceedings was instituted by Teresa Villar Ruiz, the wife of Antonio Ruiz. As a result of those proceedings, Mrs. Ruiz sought an Income Deduction Order from the Court, which encompassed the Longshore workers' compensation payments being issued by CIGNA as a result of the aforementioned Joint Stipulation, and the Order was issued by the Court on May 8, 2001. (R. 4); App. at 13a.

Proceedings Below

Subsequent to the Court's issuance of the Income Deduction Order, CIGNA stated an Objection to the Income Deduction Order. This objection was called up for hearing before the Honorable Rosa Rodriguez on September 28, 2001; and, after hearing oral argument of the parties and allowing CIGNA to file a post-hearing memorandum of law, the Court issued an Order Denying CIGNA's Objection to the Income Deduction order. (R. 1,7,8) CIGNA also filed a concurrent Interpleader action in District Court which was dismissed and is currently pending before the Eleventh Circuit Court of Appeals, Case No: 03-10903-B. CIGNA timely appealed the denial of the Objection to the Income Deduction Order to the Third District Court of Appeal, which affirmed the decision of the Circuit Court and subsequently denied CIGNA's Motion for Rehearing, Rehearing *En Banc*, and Certification. App. at 3a, 5a. Thereafter, Petitioner, CIGNA, timely filed a Notice to Invoke Discretionary Jurisdiction with the Florida Supreme Court on the basis that the Third District's decision did not address the Supremacy Clause and also expressly and directly conflicted with a decision of another District Court of

Appeal. The Florida Supreme Court denied Discretionary Review on May 19, 2003. App. at 3a. As a result of the denial of Discretionary Review, the instant Petition for Writ of Certiorari has been filed.

REASONS FOR GRANTING THE PETITION

I. IN APPLYING FLORIDA LAW TO THE LONGSHORE ACT THE FLORIDA APPELLATE COURT DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS NOT BEEN, AND SHOULD BE, SETTLED BY THIS COURT

Although a number of state courts have addressed the issue of whether a claim for child or spousal support can pierce anti-alienation clauses under their own workers' compensation statutes, this Court has never addressed such an issue under the Longshore Act. *E.g., Bryant v. Bryant*, 621 So.2d 574 (Fla. 2d. DCA 1993); *McCall v. McCall*, 596 So.2d 4 (Ala. 1992). The confusion which exists with respect to interpreting the anti-alienation provision found in Section 16 of the Longshore Act must be settled by this Court in order to prevent the vagaries of state law from disrupting the national application of the Longshore Act, and to prevent the frustration and erosion of Congressional intent. *See* 33 U.S.C. § 916 (2003).

The need for guidance from this Court on this issue is evident from the recent diverging decisions by various courts with respect to this issue. Interestingly, while this statute has been in operation since 1927, the first reported decision interpreting Section 16 with regard to the child support issue came in 1984. The

Louisiana Supreme Court's decision in *Thibodeaux v. Thibodeaux*, 454 So.2d 813 (La. 1984), *cert. denied*, 469 U.S. 1114, 105 S. Ct. 800, 83, L. Ed. 2d 792 (1985), involved a former spouse who obtained a writ of garnishment from a family court with respect to her ex-husband's Longshore benefits. The Longshore carrier, Employers National Insurance Company, objected to the writ of garnishment, and argued that the benefits were exempt from attachment under Section 16. At that time, since there were no analogous Longshore Act decisions to guide it, the Supreme Court of Louisiana began analyzing how Congress and this Court treated anti-alienation provisions found in other statutes. The *Thibodeaux* Court dutifully analyzed this Court's decisions in *Ridgway v. Ridgway*, 454 U.S. 46, 102 S. Ct. 49, 70 L. Ed. 2d. 39 (1981) and *Hisquierdo v. Hisquierdo*, 439 U.S. 572, 99 S. Ct. 802, 59 L. Ed. 2d. 2(1979), which provide that state divorce decrees and other laws governing economic aspects of the domestic relations must give way to clearly conflicting federal enactments. After analyzing the particular facts of its claim, which are strikingly similar to those set forth herein, the Louisiana Supreme Court embraced the Supremacy Clause and declined to carve out a judicial exception to the Act's anti-attachment clause in light of the all encompassing language found within the Act's anti-alienation provision. *Id.* at 814. In doing so, the Court resisted the temptation to apply state law and hold that alimony and child support are not "debts" because a spouse and children are not traditional creditors. *Id.* at. 814-815. By endorsing the Supremacy Clause, the Louisiana Supreme Court prevented "the vagaries of state law from disrupting the national scheme, and guarantee(ed) a national uniformity that

enhances the effectiveness of Congressional policy." *See Thibodeaux*, 454 So.2d 813, 816, *quoting Hisquierdo*, 102 S. Ct. at 58. The Court acknowledged that such result was inequitable, yet dictated that it was not the province of state courts to ignore or re-write the exemption provision enacted by Congress. *Id.* at 816.

The next reported case dealing with interpretation of the anti-alienation provision of the Longshore Act was *Spitalieri v. Spitalieri*, 593 N.Y.S. 2d. 172 (Sup. Ct. 1993). That decision similarly involved a spouse, Denise Spitalieri, seeking an order attaching her ex-husband Louis Spitalieri's Longshore benefits to satisfy outstanding child support and maintenance obligations. The *Spitalieri* Court adopted *Thibodeaux* in holding that although the plight of Denise Spitalieri was compelling, the logic and rationale of the *Thibodeaux* decision mandated a denial of her request for a deduction order of Louis Spitalieri's Longshore benefits. *Id.* at 173. Also, like *Thibodeaux*, the *Spitalieri* Court held that the solution to the equity issue lies with Congress, and not with the state courts. *Id.* Moreover, the *Spitalieri* Court found *Thibodeaux'* reasoning particularly insightful with respect to the explanation that had Congress intended an exception for alimony and/or child support obligations, it could have easily created one. *Id.* Indeed, both courts cited various other federal statutes excepting familial obligations from similar restrictions found in other federal benefits plans. *Id.* at 173 n.1. The other federal benefits plans cited by *Thibodeaux* and *Spitalieri* included the Social Security Act, 42 U.S.C. § 659, effective January 1, 1975, wherein the United States waived sovereign immunity to allow garnishment of government employees wages

for the enforcement of child support and alimony obligations. 593 N.Y.S. 2d. at 173 n.1; 454 So.2d at 815 n.9; *See also* 46 U.S.C. § 11109 (2003) (providing exception to anti-alienation provision protecting a seaman's wages for support or maintenance of spouse or minor children).

The anti-alienation issue again arose shortly thereafter in *Moyle v. Director, OWCP*, 147 F.3d 1116 (9th Cir. 1998). In *Moyle*, Raymond Moyle was receiving Longshore compensation benefits when an Oregon state court issued a garnishment order of those benefits to satisfy delinquent spousal support payments. *Moyle*, however, is factually dissimilar from this cause, as Mr. Moyle's Longshore benefits were being paid through the "Special Fund" governed by Section 8(f) of the Longshore Act, of which the United States Treasury is the guardian. *See Moyle*, 147 F.3d at 1118. As a result of this distinction, the Ninth Circuit compared the anti-alienation provision of the Longshore Act with various later enacted provisions of the Social Security Act permitting garnishment of monies due from or payable by the United States. Based on the existence of these more recent amendments to the Social Security Act, the *Moyle* Court held that Section 16 of the Longshore Act had been impliedly repealed, and ultimately permitted the garnishment. *Id.* at 1123.

The opinion of Florida's Third District below, the latest in the diverging line of opinions on this issue, rejected the factually similar and well-reasoned *Thibodeaux* and *Spitalieri* decisions, and endorsed the wholly distinguishable *Moyle*. In fact, the Third District's opinion subjudice did exactly the opposite of

Thibodeaux and *Spitalieri*, which used this Court's guidance and honored Congressional intent. Instead, the *Ruiz* court indulged in Florida law to reach the ultimate holding that child support obligations are not debts, and therefore the anti-alienation clause of the Longshore Act did not apply. *See CIGNA v Ruiz*, 834 So.2d 234, 235 (Fla. 3d. DCA 2002). As noted above, the opinion *sub judice* also adopted the rationale of *Moyle* without recognizing the crucial distinguishing fact that Mr. Ruiz' compensation checks were not "paid or payable by the United States of America." *Id.* at 236.

Pursuant to the above, without the benefit of this Court's guidance, Section 16 of the Longshore Act arguably does not exist in one form or another in the Ninth Circuit or in parts of the State of Florida. The decision below appears to be exactly what *Ridgway, Hisquierdo, Thibodeaux* and *Spitalieri* cautioned against: a state court allowing the vagaries of its own law to disrupt the national scheme and override Congressional intent. Indeed, if every state follows the lead of *Ruiz*, Section 16, and perhaps other parts of the Act, will become a patchwork in progress across the nation. This is certainly not the national uniformity for Longshore workers that this Court originally sought in *Southern Pacific Company v. Jensen*, 244 U. S. 205, 37 S. Ct. 524, 61 L. Ed. 1086 (1917) and *Knickerbocker Ice Co. v. Stewart*, 253 U. S. 149, 40 S. Ct. 738, 69 L. Ed. 834

(1920).[1] Nor is it the uniformity intended by Congress in enacting a federal Longshore Act. In fact, Congress has made its express intention to pre-empt this particular area of law. *See* 33 U.S.C. § 901 et. seq. To approve of *Ruiz* would give the States power over an area of law which the Constitution directly granted to the federal government. Indeed, in *Knickerbocker* and *Jensen*, this Court zealously protected against State interference in maritime matters. To preserve the uniformity of the Longshore act and prevent any further erosion of Congressional intent, this Court must grant Certiorari and settle these important questions of federal law which have previously not been addressed by this Court.

II. THE THIRD DISTRICT DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT

One of this Court's seminal decisions with respect to the anti-alienation clauses is *Ridgway v. Ridgway*, 454 U.S. 46, 102 S. Ct. 49, 70 L. Ed. 2d. 39 (1981). In *Ridgway*, this Court mandated that controlling provisions of the Servicemen's Group Life

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[1] The Knickerbocker Court described the importance of uniformity as follows: "Its [Congress'] power to legislate concerning rights and liabilities within the maritime jurisdiction, and remedies for their enforcement, arises from the Constitution, as above indicated. The definite object of the grant was to commit direct control to the federal government, to relieve maritime commerce from unnecessary burdens and disadvantages incident to discordant legislation, and to establish, so far as practicable, harmonious and uniform rules applicable throughout every part of the Union. Knickerbocker, 253 U.S. at 164, 40 S. Ct. at 441.

Insurance Act prevailed over any inconsistent state law, and that state divorce decrees could not divert proceeds from the beneficiary designated by the insured in light of that Act's anti-attachment provision. *Id.* at 56. In reasoning that the Supreme Court of Maine over stepped its bounds in attaching and executing upon Richard Ridgway's life insurance benefits, this Court quoted its powerful language from *Hisquierdo v. Hisquierdo*, 439 U.S. 572, 99 S. Ct. 802, 59 L. Ed. 2d.2 (1979), to determine how anti-attachment provisions must be treated:

> Like anti-attachment provisions generally, it insures that the benefits actually reach the beneficiary. It pre-empts all state law that stands in its way. It protects the benefits from the legal process 'not withstanding any other law ... of any State'... it prevents the vagaries of state law from disrupting the national scheme, and guarantees a nationally uniformity that enhances the effectiveness of Congressional policy. *Ridgway*, 454 U.S. at 60 *quoting Hisquierdo*, 439 U.S. at 584, 99 S. Ct. at 809.

The majority opinion also rejected the dissenting justices view that the anti-alienation provision should not apply because Mr. Ridgway's children were not "creditors". Id. at 57 n.1. In fact, this Court pointed to a panoply of case law rejecting that argument based on cases arising under the National Servicemen's Life Insurance Act (NSLIA), the predecessor to the SGLIA. *Id.* at 57 n.11.

Therefore, even a cursory review of *Ridgway* and the case law in support of its decision reflects that the Third District's Opinion below, holding that child support obligations are not "claims of creditors", is contrary to this Court's holding in *Ridgway* and the numerous other decisions involving similar anti-attachment provisions. If this Court does not accept certiorari and allows the Third District's Opinion to stand, the warnings of *Hisquierdo* will have gone unheeded, and the door will be open for state courts to stand in Congress' shoes and legislate by judicial fiat, while at the same time emasculating the power of Congress.

CONCLUSION

For all the aforementioned reasons, the Petitioner request that this Honorable Court grant this Petition for Certiorari and reverse the decision of the Third District Court of Appeal.

Respectfully submitted,

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Counsel for Petitioner

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SUPREME COURT OF FLORIDA

MONDAY, MAY 19, 2003

ENTERED MAY 19, 2003

CASE NO.: SC03-279
Lower Tribunal No.: 3D01-3314

CIGNA PROPERTY &
CASUALTY ET AL.
Petitioner(s)

vs.

TERESA VILLAR RUIZ,
Respondent(s)

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the Petition for Review is denied.

No Motion for Rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d).

ANSTEAD, C.J., and WELLS, PARIENTE, CANTERO and BELL, JJ., concur.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

bh
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LAWRENCE B. CRAIG, III
FRANK, JR. JOSEPH SIOLI
MARC J. TANNEN
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IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT
JANUARY TERM, A.D. 2003
LOWER TRIBUNAL NO. 92-41223

JANUARY 15, 2003

ENTERED JANUARY 15, 2003

CIGNA PROPETY &
CASUALTY
Appellant(s)/Petitioner(s)

vs.

TERESA VILLAR RUIZ,
ET AL.
Appellee(s)/Respondent(s)
_____/

Upon consideration, appellant's motion for rehearing and certification is hereby denied. COPE, GREEN and RAMIREZ, JJ., concur. Appellant's motion for rehearing en banc is denied.

Upon consideration, appellee Teresa Villar Ruiz' motion to strike appellant's motion for rehearing is hereby denied as moot. COPE, GREEN and RAMIREZ, JJ., concur.

Clerk, District Court of
Appeal, Third District

Copies furnished to:
Marc J. Tannen
Lawrence B. Craig, III
Jose I Valdes

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2002

** CASE NO. 3D01-3314
**LOWER TRIBUNAL NO. 92-41223

Opinion filed October 23, 2002

ENTERED OCTOBER 23, 2002

CIGNA PROPERTY & CASUALTY, **
Appellant, **

vs.

TERESA VILLAR RUIZ and ANTONIO RUIZ,
Appellees. **

An appeal from the Circuit Court for Miami-Dade County, Rosa I. Rodriguez, Judge.

Valle & Craig, P.A., and Lawrance B. Craig, and Frank J. Sioli, for appellant.

Antonio Ruiz, in proper person; Marlow, Connell, Valerius, Abrams, Adler & Newman and Jose I. Valdes, for appellee.

Before COPE, GREEN, and RAMIREZ, JJ.

GREEN, J.

This is an appeal from an income deduction order requiring Cigna Property & Casualty ("Cigna") to withhold certain sums owing to its insured, Antonio Ruiz, and to remit the same to Teresa Villar Ruiz, as child support for the Ruiz's minor child. Cigna maintains that because the anti-alienation provision of the Longshore and Harbor Worker's Compensation Act ("LHWCA") under which Antonio Ruiz was receiving his benefits from Cigna exempted all claims of creditors, the income deduction order is erroneous. We do not agree that the anti-alienation provision of LHWCA is applicable to Ruiz's child support obligation at issue in this case. Accordingly, we affirm.

In 1981, Antonio Ruiz was injured while in the employ of Potashnick Construction. Ruiz filed a workers' compensation claim under the Longshore and Harbor Workers' Compensation Act ("Longshore Act"), and eventually entered into a Joint Stipulation and a Request for Order Awarding Benefits with his employer and its Longshore Carrier, Cigna. Pursuant to the joint stipulation, Potashnick and Cigna accepted Ruiz as permanently and totally disabled as of March, 1985, and agreed to pay Ruiz permanent total disability benefits as of June, 1990.

Ruiz and his wife, Teresa Villar-Ruiz, were divorced in February 1992. The final judgment for dissolution of marriage obligated Ruiz to pay child support to Villar-Ruiz for the parties' minor child. Thereafter, Ruiz sporadically paid his support

obligation. Accordingly, in 1994, the trial court issued an Income Deduction Order, directed to Cigna, to withhold a portion of Ruiz's benefits to pay for his child support obligations. Cigna abided with this order until late 1996 when it unilaterally decided to discontinue the payments.

Once again, Ruiz began a pattern of sporadic child support payments. The case was referred to Child Support Enforcement to no avail. The matter was thereafter referred back to the trial court which entered a new Income Deduction Order directing Cigna to withhold $628.00 per month from Ruiz's monthly benefits and pay this money to Villar-Ruiz for " on-going child support." (emphasis added).

Cigna failed to comply with the order and noticed the matter for hearing. Following the hearing, the trial court denied Cigna's objections to the Income Deduction order and held:

1. That CIGNA's objection to the Income Deduction Order of May 8, 2001, is denied.

2. CIGNA shall forthwith comply with the Income Deduction Order and shall commence making payments forthwith to TERESA VILLAR RUIZ as directed in said order.

3. That in addition to the amounts to be paid under said order, CIGNA shall deduct and pay to TERESA VILLAR RUIZ an additional $200.00 per month in order to pay for the $3,140.00 in payments that CIGNA should have made between May and

October 2001, but which it failed to do on the basis of its objections. Said additional payments be made for the next 15 months with an additional final payment of $140.00 on the sixteenth month.

It is from this order that Cigna appeals.

Cigna's refusal to abide by the trial court's order was premised upon section 16 of the LHWCA which provides that:

> No assignment, release, or commutation of compensation or benefits due or payable under this Act, except as provided by this Act, shall be valid, and such compensation and benefits shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

See 33 USCA § 916 (2001).

By its own terms this statute only applies to "claims of creditors" or attachment or execution for "collection of a debt."

It is clear, under Florida law, that a claim for child support is not the claim of a creditor. See Department of Revenue v. Springer, 800 So. 2d 700, 701 (Fla. 5th DCA 2001) (holding that claims for child support arrearages not a claim of a creditor). See also Bryant v. Bryant, 621 So. 2d 574, 576 (Fla. 2d DCA 1993)

(holding that exemption of worker's compensation claims from claims of creditors does not extend to claim based on award of child support). Both Springer and Bryant involved claims for child support arrearages. In this case, where the claim is for "on-going child support," it is clear that the deduction is not the claim of a creditor.[1]

Moreover, it is equally clear that a child support obligation is not a debt. See Gibson v. Bennett, 561 So. 2d 565, 570 (Fla. 1990) (stating that: "a support obligation is viewed as a personal duty, not only to a former spouse or child, but to society generally.") citing Bronk v. State, 43 Fla. 461, 31 So. 248 (1901). The Gibson court explained that:

> In determining that a support decree was not such a debt, the Court distinguished an obligation to pay support from a debt arising from a business transaction or a contractual obligation:
>
> > [A] decree awarding alimony to the wife or children, or both, is not a debt which has been put into the form of a judgment, but is rather a legal means

---

1 Admittedly, the trial court's order on Cigna's objections to Income Deduction Order does require Cigna to pay an additional $200.00 per month to make up for those payments that Cigna should have made pursuant to the Income Deduction Order. Moreover, Cigna can not be heard now to complain about something that was of its own doing.

> of enforcing the obligation of the husband and father to support and maintain his wife and children. He owes this duty, not because of any contractual obligation, or as a debt due to the wife, but because of the policy of the law which imposes the obligation upon the husband. The law interferes when the husband neglects or refuses to discharge this duty, and enforces it against him by means of legal proceedings.

Gibson, 561 So. 2d at 570, quoting Westmore v. Markoe, 196 U.S. 68, 74 (1904).

In this case, it is clear on its face, that the statute upon which Cigna relies, is inapplicable to Ruiz's child support obligation.[2] Thus, the order of the trial court is affirmed.

---

[2] Cigna's reliance on Spitalieri v. Spitalieri, 593 N.Y.S. 2d 172 (N.Y. Sup. Ct. 1993) and Thibodeaux v. Thibodeaux, 454 So. 2d 813 (La. 1984) is misplaced. These cases were decided prior to a 1996 amendment to the non-alienation provisions of the Social Security Act which has been held to have impliedly repealed the non-alienation provision of the LHWCA with regard to delinquent support obligations.

IN THE CIRCUIT COURT OF THE 11th JUDICIAL CIRCUIT, IN AND FOR DADE COUNTY, FLORIDA

FAMILY DIVISION
CASE NO.: 92-041223 FC 46
Fla. Bar No.: 772100

TERESA VILLAR RUIZ,
Petitioner,

vs.

ANTONIO RUIZ,
Respondent.
_____/

ORDER DENYING CIGNA PROPERTY AND CASUALTY COMPANIES' OBJECTIONS TO INCOME DEDUCTION ORDER

ENTERED OCTOBER, 2001

THIS CAUSE having come on to be heard pursuant to notice on September 28, 2001, upon CIGNA PROPERTY AND CASUALTY COMPANIES' (hereafter referred to as "CIGNA") objections to Income Deduction Order and the Court having heard argument of counsel, examined the court file and reviewed the memorandum filed therewith and being fully advised upon the premises, it is hereby

ORDERED and ADJUDGED as follows:

1. That CIGNA's objection to the Income Deduction Order of May 8, 2001, is denied.

2. CIGNA shall forthwith comply with the Income Deduction Order and shall commence making payments forthwith to TERESA VILLAR RUIZ as directed in said order.

3. That in addition to the amounts to be paid under said order, CIGNA shall deduct and pay to TERESA VILLAR RUIZ an additional $200.00 per month in order to pay for the $3,140.00 in payments that CIGNA should have made between May and October 2001, but which it failed to do on the basis of its objections. Said additional payments shall be made for the next 15 months with an additional final payment of $140.00 on the sixteenth month. ___

DONE AND ORDERED in Chamber, Miami-Dade County, Florida this ___ day of October, 2001.

_____

ROSA I. RODRIGUEZ
Circuit Court Family Division Judge

Copies furnished to:

Jose I. Valdes, Esq.
Antonio Ruiz
Frank J. Sioli, Esq.

IN THE CIRCUIT COURT OF THE 11th JUDICIAL CIRCUIT, IN AND FOR DADE COUNTY, FLORIDA

FAMILY DIVISION
CASE NO.: 92-041223 FC 46
Fla. Bar No.: 772100

ENTERED MAY, 2001

TERESA VILLAR RUIZ,
Petitioner,

vs.

ANTONIO RUIZ,
Respondent.
_____/

TO: CIGNA PROPERTY AND CASUALTY COMPANIES

YOU ARE HEREBY ORDERED, pursuant to Florida law, to:

1. Make regular deductions from all income of the above-named obligor in accordance with the terms of this Order and the attached NOTICE TO PAYOR in the following manner:

a) $628.00 per month for on-going child support NOTICE TO PAYOR

YOU ARE HEREBY NOTIFIED that, pursuant to Section 61.1301, Florida Statutes, you have

responsibilities and rights as set forth below with regard to the accompanying document(s).

You are required to deduct from the income or benefits due the obligor the total amount as provided for in paragraph number 1 (a) on page one of this order.

Payments are to include the obligor's name, social security number and the first case number of page one of this order, and are to be made payable and sent to:

TERESA VILLAR RUIZ
7358 SW 106th Court
Miami, FL 33173

YOU ARE REQUIRED TO:

1. Begin making such deductions no later that the first payment date which occurs more than fourteen (14) days after the date the Income Deduction Order is served on you.

2. Forward the amount deducted to TERESA VILLAR RUIZ at 7358 SW 106th Court, Miami, Florida 33173, within two (2) working days after each date the obligor is entitled to payment from you.

You may deduct and retain and additional Five ($5.00) Dollars for the first deduction, and One ($1.00) Dollar for each subsequent deduction to reimburse you for your administrative costs.

You may not discharge, refuse to employ or take any disciplinary action, against an obligor because of an Income Deduction Order. Violation of this provision subjects you to a civil penalty of up to two Hundred Fifty ($250.00) for the first violation, and up to Five Hundred ($500.00) Dollars for subsequent violations. The obligor may sue any payor who refuses to employ, who discharges, or otherwise disciplines, him/her because to employ, or who discharges or otherwise disciplines, him/her because of an Income Deduction Order. The obligor will be entitled to reinstatement and to all wages and benefits lost, plus reasonable attorney's fees and costs incurred.

You are required to notify the Clerk of Circuit Court and Teresa Villar Ruiz when you no longer provide income or benefits to the obligor. At that time, you are to provide the obligor's new employer/payor, if it is known to you. Violation of this provision subjects you to a civil penalty of up to Two Hundred Fifty ($250.00) Dollars for the violation, and up to Five Hundred ($500.00) Dollars for subsequent violations.

If you fail to deduct the proper amount from the obligor's income, you are liable for the amount you should have deducted, plus costs, interest and reasonable attorney's fees.

This notice to payor is binding on you until further notice from the Court, or until you no longer provide income to the obligor.

The addresses in paragraph six(6) in the Statement of Rights below is the address to which all notices, or inquiries, are to be sent.

OBLIGOR'S STATEMENT OF RIGHTS, REMEDIES AND DUTIES IN REGARD TO INCOME DEDUCTION ORDER

YOU ARE HEREBY ADVISED that you have the following rights, remedies, and duties in regard to the Income Deduction Order.

1. The total amount of income or benefits to be deducted for each pay period as shown on paragraph (1)(a) of page 1. The amounts deducted many not be in excess of the allowed under Florida Statute 303(b) of the first time a deduction in made and One ($1.00) Dollar for each subsequent time to cover administrative costs.

2. The Income Deduction Order applies to current and future employers and/or payors.

3. You are required to notify in writing the Clerk of Circuit Court and Teresa Villar Ruiz, at the addresses below, within seven (7) days of any change in your address or any change in your employer and/or payor, or his/her address.

4. The Income Deduction Order will be served on you employer and/or payor, unless you apply to the Court to Contest enforcement of the Order.

The application must be filed within fifteen (15) days of the date the Income Deduction Order is entered.

5. Enforcement of income deduction may be contested only on the grounds of mistake of fact regarding the amount of support owed pursuant to a court order, the amount of the arrearage (if any) or the identity of the obligor.

6. The addresses and telephone numbers where all notices and inquiries are to be sent are:

Jose I. Valdes, Esq.
Marlow, Connell, Valerius, Abrams, Adler & Newman
2950 S.W. 27th Avenue, Suite 200
Miami, Florida 33133
Tel: (305) 446-0500

DONE AND ORDERED in Chamber, Miami-Dade County, Florida this ___ day of May, 2001.

_____

ROSA RODRIGUEZ
Circuit Court Family Division Judge

Copies furnished to:
Jose I. Valdes, Esq.
Antonio Ruiz

Supreme Court, U.S.
FILED
SEP 9 2003
OFFICE OF THE CLERK

No. 03-251

In The Supreme Court of the United States

CIGNA PROPERTY AND CASUALTY,

Petitioner,

v.

TERESA VILLAR-RUIZ

and

ANTONIO RUIZ,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of Florida

BRIEF IN OPPOSITION

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STATEMENT OF THE CASE

The Respondent would submit to this Court that the Petitioner's Statement of the Case contains certain omissions which the Respondent believes constitute misstatements of fact that bear upon what issues would properly be before the Court if certiorari were granted.

PROCEEDINGS BELOW

In the Petitioner's Brief at page 5, cursory mention is made about a certain Interpleader action filed by the Petitioner in the U.S. District Court for the Southern District of Florida, Case Number 02-21655 CIV Jordan, and of a concurrent appeal from that case to the Eleventh Circuit Court of Appeals under Case Number 03-10903-B. In order for this Court to have a full understanding of the issues presented, the Respondent would further elaborate on those proceedings. On June 4, 2002, the Petitioner filed a Complaint ostensibly cast in terms of an interpleader action requesting that the U.S. District Court to engage in an interpretation of 33 U.S.C.A. Section 916 with regards to whether or not Antonio Ruiz' benefits were immune from legal process pursuant to state law. The U.S. District Court issued a Show Cause Order on November 5, 2002, indicating that those proceedings should be dismissed in light of the Florida Third District Court of Appeal's decision in the matter of *Cigna Property & Casualty v. Ruiz* 834 So. 2d 234 (Fla. 3d DCA, 2002). By order dated January 21, 2003, the U.S. District Court dismissed the federal case on the basis that the Petitioner submitted the federal question for determination to the state court which was presumptively competent to adjudicate claims arising

under the laws of the United States. Thereafter, the Petitioner filed an appeal to the United States. Court of Appeals for the Eleventh Circuit in case number 03-10903-B. On or about April 9, 2003, Petitioner filed its Initial Brief. The case is scheduled for oral arguments the week of September 22, 2003.

THE REASONS ASSERTED BY THE PETITIONER FOR GRANTING THE PETITION

I. THAT IN APPLYING FLORIDA LAW TO THE LONGSHORE ACT THE FLORIDA COURT DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS NOT BEEN, AND SHOULD BE, SETTLED BY THIS COURT

The Petitioner misconstrues the actions of the Florida state court when it states that the state court decided an issue of federal law in a manner which conflicts with federal legal authority. In interpreting the application of the non-alienation provisions of 33 U.S.C.A. Section 916, the state court concluded that the Income Deduction Order applied to "on-going child support" obligations of Antonio Ruiz and not to past due arrearages. This distinction was crucial to the analysis since all of the cases relied upon by the Petitioner involved past due arrearages. All the cases relied upon by the Petitioner for the proposition that child support obligations constitute "claims of a creditor", involved situations where the former spouse had obtained a judgment for past due payments. The state court thus reasoned that on-going child support obligations (which were the subject of the Income Deduction Order) were not claims of a creditor as contemplated by 33 U.S.C.A. Section 916.

Furthermore, the state court found that the United States Congress enacted a series of amendments in 1996 to the non-alienation provisions of the Social Security Act which has been held to have impliedly repealed the non-alienation provision of the Longshore Act with regards to child support payments. Therefore, even if the amounts in controversy were considered "claims of a creditor", the U.S. Congress expressly manifested its intention to exclude child support obligations from the purview of the non-alienation provisions. Engaging in an overview of analogous state law, the state court concluded that similar state laws had been likewise amended to move away from archaic concepts of law. In order to understand the rationale for the state court's decision it is necessary to analyze the historical development of the non-alienation provision and the effect of the 1996 amendments.

Before engaging in any analysis of whether or not the non-assign ability provisions of 33 U.S.C.A. Section 916(16) prevents the enforcement of the subject Income Deduction Order, one must as a preliminary matter ascertain if the aforementioned statute even applies to the facts of this case. The statute by its own wording only applies to "claims of creditors" or attachment or execution for "collection of a debt". If the payments required to be made under the Income Deduction Order are not "claims of a creditor" or "collection of a debt", then the statute has no application whatsoever to this case and this Court's analysis concludes at this stage. Although Mr. Ruiz owed approximately $5,000 in arrearages for this child support payments, the Income Deduction Order was not directed to his past due child support payments but rather was directed toward future (and as yet not due) child support obligations. The order clearly provided that the monthly

$628.00 withheld were for "ongoing child support" (R. 4, Page 1, Paragraph 1(a)). None of the payments required to be withheld by CIGNA were intended to pay for his past due arrearages. Thus the monies in question are not "a debt" and the Respondent and her minor son do not stand as "creditors" of Mr. Ruiz. A close scrutiny of the cases cited by CIGNA demonstrate the distinction. In the case of *Thibodeaux v. Thibodeaux*, 450 So. 2d 813, *cert. denied*, 469 U.S. 1114, 105 S. Ct. 800, 83 L. Ed. 2d 792 (1985) which is heavily relied upon by CIGNA, the Court was faced with a situation involving garnishment of past due child support payments of $5,460.00. The Court therein reasoned that past due child support is a debt within the meaning of 33 U.S.C.A. Section 916. Likewise, in the case of *Spitalieri v. Spitalieri*, 156 Misc. 2d 317 (N.Y. Sup. Ct. 1993) also relied upon by CIGNA, dealt with the issue of $10,724.00 in unpaid and past due child support payments. *Spitalieri* at p. 318. The case of *Moyle v. Director Office of Worker's Compensation Programs, et al.*, 147 F.3d 1116 (9th Cir. 1998) also dealt with garnishment of disability payments to satisfy delinquent spousal support payments. Since the Income Deduction Order issued by the state trial court was not directed towards Mr. Ruiz' past due child support payments but rather was directed to his future child support obligations, the non-alienation provision of 33 U.S.C.A. Section 916(16) does not even apply.

Whether monies or benefits can be subject to legal process is to be determined in accordance with state law. *DeTienne v. DeTienne*, 815 F. Supp. 394 (Dist. Ct., So. Dist. of Kansas, 1993). In the *DeTienne* case the U.S. District Court was called upon to decide if social security disability benefits were subject to garnishment for payment of child

support obligations. The court noted that whether the benefits were subject to legal process was to be determined in accordance with Kansas state law and in applying Kansas state law held that the benefits in question were subject to garnishment. Thus, the issue of whether the benefits involved herein constitute a "debt" is determined under Florida law. In the case of *Bryant v. Bryant*, 621 So. 2d 574 (Fla. 2nd DCA, 1993) the court was faced with a question of first impression: Whether workman's compensation benefits are exempt from claims for child support? In citing a number of cases evidencing the views of the great majority of courts in the country, the Florida Second District Court of Appeals stated that a child support obligation is not a debt or a claim of a creditor. *Bryant* at p. 575. The court went on to hold that the non-alienation provision in the Florida Workman's Compensation Statute, Section 440.22 (which is identical to the non-alienation provision in 33 U.S.C.A Section 916(16)) did not operate to shield such benefits from execution for payment of child support obligations. Florida likewise amended of the non-alienation provision of F.S. Section 440.22 to permit attachment for child support purposes. Even if on-going (and as yet not due) child support obligations are considered a debt, the Respondent respectfully submits that 33 U.S.C.A. Section 916(16) does not operate to bar enforcement of the Income Deduction Order. The cases relied upon by the Petitioner in support of its position were decided prior to the 1996 amendment to the non-alienation provisions of the Social Security Act. The *Thibodeaux* case was decided in 1985; the case of *Ridgeway v. Ridgeway*, 454 U.S. 46, 102 S. Ct. 49, 70 L. Ed. 2d 39 (1981) was decided 15 years prior to the amendment; and *Spitalieri* was decided in 1993. In 1996 Congress amended 42 U.S.C.A. Section 659(h)(1)(A)(iii) to provide that Workman's Compensation

Benefits are subject to enforcement for child support obligations. Thereafter, 5 C.F.R. Section 581.103(c)(4) was enacted which specifically provided that benefits received under the Longshoremen's & Harbor Worker's Compensation Act were subject to garnishment for purposes of child support obligations. The state court correctly interpreted these provisions as repealing the non-alienation provisions of 33 U.S.C.A. Section 916(16) as it relates to child support obligations.

After the enactment of the aforementioned statutory changes, the *Moyle* case came before the courts on the issue of whether the non-alienation provisions of the Longshoremen & Harbor Worker's Compensation Act had been repealed by the later enacted amendments to the Social Security Act. The court held that Congress manifested a clear intent to repeal the non-alienation provisions in 33 U.S.C.A. Section 916(16). The Petitioner seeks to distinguish *Moyle* and the amendment to 42 U.S.C.A. Section 659 on several grounds:

- that the amendment to 42 U.S.C.A. Section 659 was intended to apply to child support obligations based upon monies due from, or payable by, the United States . . . (Petitioner's brief at p. 10)

- that the benefits herein involved are payments made by the original employer/carrier and hence the holding in *Moyle* is inapplicable.

The court in *Moyle* engaged in an exhausting review of the legislative history surrounding the 1996 amendment to 42 U.S.C.A. Section 659. In quoting from the legislative history, the court in *Moyle* noted that " . . . this report also states that the Social Security Administration Garnishment provision would override provisions in various social

insurance or retirement statutes which prohibit attachment or garnishment. This statement demonstrates that Congress did envision the Social Security Administration Garnishment provisions as an implied repeal of statutes similar to the LHWCA". The Petitioner attempts to distinguish *Moyle* by arguing that the benefits due to Mr. Ruiz are not being paid from the Special Fund (as in *Moyle*), and rather, by CIGNA in place of the employer, hence the non-alienation provisions of 33 U.S.C.A. Section 916(16) shield the payments from the Income Deduction Order. Such a narrow interpretation is not justified nor reasonable.

The definitions contained in 42 U.S.C.A. Section 662 explain the intent behind the scope of the language contained in Section 659(c). As the Court pointed out in the *DeTienne* case, Section 662(f) defines "renumeration" to include periodic benefits or other payment to such an individual under the insurance system established by Title II (42 U.S.C.A. Section 401 et seq.) *DeTienne* at p. 396. The Court's interpretation was further supported by the interpretation of the Social Security Administration in Social Security Rulings which provided that Social Security Benefits are subject to legal process to enforce child support obligations. Id.

A clear interpretation of all of the foregoing authorities leads to the inescapable conclusion that benefits due under various federal social insurance programs are intended to be subject to legal process for the enforcement of child support obligations under the 1996 amendment to 42 U.S.C.A. Section 659.

CIGNA's very narrow interpretation would inevitably lead to an equal protection problem. CIGNA is asking the

Court to create two classes of individuals through judicial fiat. One class would involve benefits received from the U.S. Government or a third party which could not avail themselves of the non-alienation provisions of 33 U.S.C.A. Section 916(16) and another class of individuals who receive first party benefits from a private carrier which could not avail themselves of the protection. However, as the state court correctly pointed out, 5 C.F.R. Section 581.101 was promulgated in order to treat private party payments the same as government payments and avoid having two classes of persons. This issue was directly addressed in the *Moyle* case where the Court stated that the Social Security Garnishment provision does reach any payments made pursuant to federal law to private individuals. *Moyle* at p. 1123 citing *DeTienne*.

Contrary to the Petitioner's arguments, the state court's decision was entirely consistent with federal law and similar state law. The United States Congress manifested a clear intent to repeal the non-alienation provisions in various federal insurance programs including the Longshore Act, with respect to child support obligations. Consistent with Congress' express intent, the Ninth Circuit Court of Appeals reiterated the congressional intent in its decision in the *Moyle* case. The Respondent respectfully submits that there is no compelling need for guidance from this Court on this issue since there are no diverging decisions by various courts. Furthermore, current Florida law on the issue of whether child support obligations are "claims of creditors" is entirely consistent with the 1996 congressional amendment and subsequent federal cases which sought to remedy archaic laws and which recognized the unique position of child support obligations in modern society. In conclusion, and rebutting

the Petitioner's assertions to the contrary, there **is** (emphasis added) uniformity between state and federal laws on this issue. As such, there is no need, compelling or otherwise, for this Court to entertain the Petitioner's petition and resolve a non-existent problem.

II. THAT THE THIRD DISTRICT DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT

The Petitioner's reliance on the case of *Ridgeway v. Ridgeway*, 454 U.S. 46, 102 S. Ct. 49, 70 L. Ed. 2d 39 (1981) is totally misplaced. The *Ridgeway* case actually stands for the proposition that state laws must give way to CLEARLY CONFLICTING (emphasis added) federal enactments. As previously discussed, there is no clear conflict between federal law and Florida law on this issue. In fact, the contrary is true. Likewise, before this Court can be called upon to utilize the supremacy clause of the federal constitution to override state law, there must exist a clear conflict which rises to the level of doing "major damage to clear and substantial federal interests." *United States v. Yazell*, 382 U.S. 341, 352, 86 S. Ct. 500, 507, 15 L. Ed. 2d 404 (1966) quoted in *Hisquierdo v. Hisquierdo*, 439 U.S. 572, 581, 99 S. Ct. 802, 808, 59 L. Ed. 2d 2 (1979). The *Ridgeway* and *Hisquierdo* cases were decided prior to the 1996 congressional amendments to The Social Security Act repealing non-alienation provisions in a host of federal insurance programs as they relate to child support obligations. The "conflicts" that existed between state and federal laws at the time that *Ridgeway* and *Hisquierdo* were decided no longer exist by virtue of the amendments to 42 U.S.C.A. Section 659(h)(1)(A)(iii) and the enabling

statute enacted thereafter. 5 C.F.R. Section 581.103(c)(4). The concerns expressed by the Petitioner that state laws will emasculate federal law are simply illusory.

CONCLUSION

Based upon the foregoing discussion, the Respondent respectfully submits that this Honorable Court should not exercise its discretionary jurisdiction in this matter and decline to entertain this case.

Respectfully submitted,

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No. 03-251

(3)

Supreme Court, U.S.
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In The Supreme Court of the United States

CIGNA PROPERTY AND CASUALTY,
Petitioner,

v.

TERESA VILLAR RUIZ

and

ANTONIO RUIZ,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

REPLY BRIEF OF PETITIONER

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III.

ARGUMENT

In her Brief in Opposition, the Respondent initially elaborates upon the collateral Interpleader action originally filed by the Petitioner in United States District Court, which is currently pending in the United States Court of Appeals for the Eleventh Circuit. The basis of the Interpleader action was to have the District Court determine which Judge's Order the Petitioner should follow: the earlier Administrative Law Judge Order directing the Petitioner to pay Longshore benefits to Antonio Ruiz, or the subsequent State Court Order directing the Petitioner to divert proceeds to his former wife, the Respondent herein. The Petitioner would urge that the District Court's ultimate decision dismissing the Interpleader action demonstrates additional confusion with respect to the application of Section 16 of the Longshore Act. Granting certiorari would dispel the imbroglio surrounding this issue, and would enable the nation to enjoy a uniform application of the anti-alienation provision of the Longshore Act.

The Respondent then argues that the anti-alienation provision does not apply to these facts because the Income Deduction Order is directed toward *future* child support obligations, rather than *past due* amounts. While clever, this argument falls on its face based on the all-encompassing language in the statute. Indeed, this Court has commented on the breadth and great amount of deference which should be given to anti-attachment provisions. *Ridgway v.*

Ridgway, 454 U.S. 46, 102 S. Ct. 49, 70 L. Ed. 2d 39 (1981). Therefore, it would be non-sensical to conceive that such a broad provision could be defeated by simply construing the garnished funds as a *future* obligation. Moreover, the facts do not even support that this is a *future* obligation. In fact, at the time the funds are withdrawn, the *future* obligation essentially becomes a *present* one, which is certainly within the purview of the comprehensive anti-alienation provision.

The Respondent's next argument relates to applying Florida law to the Longshore Act. To the extent that this argument violates the Preemption doctrine and was essentially rejected by this Court in *Ridgeway v. Ridgeway,* this contention should similarly be dismissed herein. *See Id.*

Finally, the Respondent's arguments regarding the amendments to the Social Security Act, which ostensibly allow for garnishment of workers' compensation benefits, simply do not apply to this claim. This is not, and never has been, an action where the United States was paying workers' compensation benefits. Therefore, neither the Social Security statute, nor its amendments, apply to the instant claim. Further, the equal protection claim raised by the Respondent as part and parcel of its argument under the Social Security Act is essentially a red herring. Congress certainly has the power to legislate with respect to individuals who receive funds from the United States Treasury, and people who do not receive funds from the United States Treasury are not a protected class of individuals.

IV.

CONCLUSION

This Court should grant Certiorari to review the decision of the lower court which decided an important question of federal law which has not been, and should be, settled by this Court. The court below also decided an important federal question in a way that conflicts with relevant decisions of this Court. Therefore, Certiorari should be granted.

Respectfully submitted,

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